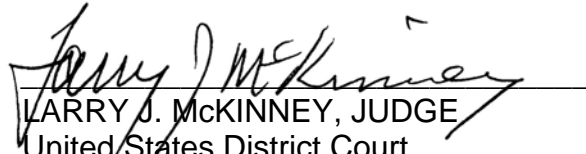


This matter comes before the Court on defendant's, United States Government Department of the Navy ("Defendant"), Motion to Strike the Plaintiff's Rebuttal Expert Witness Disclosure or in the Alternative, to Allow Deposition After the Discovery Deadline ("Motion to Strike") [Dkt. No. 45], seeking to strike plaintiff's, Janella Knierim ("Plaintiff"), disclosure of Dr. Eduardo Esper ("Dr. Esper"). The Court has not yet ruled on Plaintiff's Motion to Exclude the Testimony of Defendant's Expert Witness, Anthony Milano, M.D. ("Motion to Exclude") [Dkt. No. 48] because briefing is not yet concluded, but the outcome of the Motion to Exclude will affect whether Dr. Esper's testimony is necessary. However, because the trial date is fast approaching, it would be prudent to allow Dr. Esper's deposition testimony to be taken in the interim, and Plaintiff does not object to the taking of the deposition. Therefore, the Court **GRANTS in part** and **DENIES in part** Defendant's Motion to Strike [Dkt. No. 45]. Plaintiff's disclosure of Dr. Esper as a rebuttal witness will not be stricken. However, Plaintiff will be allowed to depose Dr. Esper even though the

discovery deadline in this action has passed.

IT IS SO ORDERED this 14th day of April 2011.


LARRY J. McKINNEY, JUDGE
United States District Court
Southern District of Indiana

Distribution to:

Thomas E. Kieper
UNITED STATES ATTORNEY'S OFFICE
tom.kieper@usdoj.gov

James O. McDonald
EVERETT EVERETT & MCDONALD
jameso@mcdonaldlawoffice.com

Margaret A. Schutte
UNITED STATES ATTORNEY'S OFFICE
margaret.schutte@usdoj.gov